

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

3379554.1

## **II. PROCEDURAL BACKGROUND**

2. On February 1, 2011 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”).

3. The Debtor continues to manage and operate its business as debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been requested or appointed. No committee has been appointed in this Case.

4. On March 29, 2011, the Debtor and the Ombudsman filed a *Motion to Authorize Entry into Services Agreement with Bastrop Open MRI Pursuant to 11 U.S.C. § 363* (the “Motion”). The purpose of the Motion is to provide a means for the Debtor to timely, and in compliance with Federal and State rules and regulations, to respond to requests for Patient Records.

5. The statutory predicates for the relief requested herein are section 105 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure.

## **I. RELIEF REQUESTED**

6. The Ombudsman seeks to have a hearing on the Motion on shortened notice to ensure that Patients and other appropriate parties who are in need of Patient Records have a mechanism for obtaining the Patient Records. Thus, the Trustee seeks to have the Motion considered by this Court on March 31, 2011 at 1:30 p.m.

## **II. ARGUMENT AND AUTHORITY**

7. The Ombudsman seeks a hearing on the Motion on shortened notice because the inability to obtain Patient Records impacts patient care and treatment. The Ombudsman believes that there are requests for which there has been no response. This past week, with the Debtor’s

and Bastrop Open MRI's cooperation, steps have been taken to provide Patient Records for two patients that needed them on an immediate basis. However, there needs to be a formal procedure and agreement in place that is HIPAA compliant so that the needs of Patients are addressed on a timely fashion.

8. Additionally, the Debtor has other matters set at the requested time. Thus, the necessary parties would already be present and available in the courtroom. The Ombudsman does not anticipate that the relief requested in the Motion will be opposed by any of the parties.

9. Pursuant to section 105(a) of the United States Bankruptcy Code, "[t]he court may issue any order . . . that is necessary or appropriate to carry out the provision of this title." There is good and sufficient cause to grant this Motion to Expedite.

**WHEREFORE**, the Ombudsman respectfully requests that the Court enter an Order setting a hearing on the Motion for March 31, 2011 at 1:30 p.m. and granting such other and further relief as is just and proper.

Dated: March 29, 2011

Respectfully submitted,

**COX SMITH MATTHEWS INCORPORATED**

By: /s/ Carol E. Jendrzey

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**PATIENT CARE OMBUDSMAN**

**CERTIFICATE OF CONFERENCE**

The undersigned conferred with Hal Morris and Ashley Bartram of the Office of the Attorney General. They are reviewing the Motion and were not prepared to take a position at the time that the Motion to Expedite was filed. Weldon Ponder, counsel for the Debtor and Deborah Bynum of the US Trustee's office do not oppose the Motion to Expedite.

*/s/ Carol E. Jendrzey*\_\_\_\_\_

Carol E. Jendrzey

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing instrument was served on the following listed persons through the Court's electronic notification system or by first class United States Mail, postage prepaid no later than this 29th day of March, 2011.

/s/ Carol E. Jendrzey  
Carol E. Jendrzey

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